

HOUSE BILL No. 1442

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5.

Synopsis: Storm water management. Allows a municipality to adopt an ordinance providing for the control of any or all of its storm water facilities by the board that controls the municipality's municipally owned utilities. Provides that, if a municipality adopts such an ordinance, the municipality is not subject to certain procedures prescribed for the sharing of costs of repairing or replacing a combined storm water and sanitary sewer system.

Effective: July 1, 2003.

Friend, McClain

January 14, 2003, read first time and referred to Committee on Environmental Affairs.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1442

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The legislative
3 body of a municipality may, by ordinance, provide for the control of
4 any or all of its municipally owned utilities by:

5 (1) the municipal works board;

6 (2) a board consisting of the members of the municipal legislative
7 body;

8 (3) a utility service board established under subsection ~~(e)~~ **(f)** or
9 established before January 1, 1983, under IC 8-1-2-100
10 (repealed); or

11 (4) the board of directors of a department of waterworks
12 established under IC 8-1.5-4.

13 **The legislative body of a municipality also may adopt an ordinance**
14 **under this subsection to provide for the control of any or all of its**
15 **storm water facilities by a board described in subdivisions (1)**
16 **through (4). An ordinance granting control of any or all of a**
17 **municipality's storm water facilities to a board described in this**

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subsection may be separate from or combined with an ordinance granting control of the municipality's municipally owned utilities to a board described in this subsection.

(b) If, at the time an ordinance is adopted under subsection (a) to grant control of any or all of the municipality's storm water facilities to a board described in subsection (a) the municipality has a department of storm water management under IC 8-1.5-5, the ordinance must specify a procedure for the transition of control of the affected storm water facilities from the board of directors of the department of storm water management to the board described in subsection (a).

(c) The registered voters of a municipality may file a petition addressed to the legislative body requesting that the question of the creation of a utility service board be submitted to a referendum. The petition must be signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot.

~~(c)~~ (d) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

~~(d)~~ (e) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of _____ adopt an ordinance providing for the appointment of a utility service board to operate _____ (Insert name of utility here)?"

~~(e)~~ (f) If a majority of the voters voting on the question vote for the creation of a utility service board, the legislative body shall, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must provide for:

- (1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;
- (2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will be staggered;
- (3) the salaries, if any, to be paid to the members; and

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(4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

~~(f)~~ **(g)** The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections ~~(b)~~ **(c)** through ~~(d)~~ **(e)**.

SECTION 2. IC 8-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "board" means the following:

(1) For a consolidated city, the board of public works established by IC 36-3-5-6.

(2) For all other municipalities, the:

- (A) board of directors described in section 4 of this chapter; or**
- (B) board that controls the municipality's municipally owned utilities under IC 8-1.5-3-3(a) if the municipality has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the municipality's storm water facilities by the board that controls the municipality's municipally owned utilities.**

SECTION 3. IC 8-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to all municipalities except a consolidated city.

(b) If the legislative body of a municipality adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the board consists of three (3) directors. The executive of the municipality shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the legislative body shall prescribe, by ordinance, the terms of the directors. However, the legislative body must prescribe the initial terms of the directors so that they will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.

(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

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1 (g) If a municipality:

2 (1) has a board that controls the municipality's municipally
3 owned utilities under IC 8-1.5-3-3(a); and

4 (2) has adopted an ordinance under IC 8-1.5-3-3(a) that
5 provides for the control of any or all of the municipality's
6 storm water facilities by the board that controls the
7 municipality's municipally owned utilities;

8 the members of the board that controls the municipality's
9 municipally owned utilities shall serve as the board of directors of
10 the department of storm water management, subject to any
11 transition procedure specified in the ordinance under
12 IC 8-1.5-3-3(b). The terms of the members of the board of
13 directors are the same as the terms of the members of the board
14 that controls the municipality's municipally owned utilities under
15 IC 8-1.5-3-3(a), subject to the completion of any transition
16 procedure specified in the ordinance under IC 8-1.5-3-3(b).

17 (h) A member of the board of directors of the department of storm
18 water management **who:**

19 (1) is appointed under subsection (f); or

20 (2) is a member of the board under subsection (g) and receives
21 a salary as a member of the board that controls the
22 municipality's municipally owned utilities;

23 is not entitled to a salary for serving as a member of the board of
24 directors of the department of storm water management. However, a
25 member shall be reimbursed for necessary expenses incurred by the
26 member in the performance of official duties.

27 SECTION 4. IC 8-1.5-5-24 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) **This section
29 does not apply to a municipality in which the board is the entity
30 that owns or maintains the municipality's sanitary sewer system
31 under an ordinance adopted by the municipality under
32 IC 8-1.5-3-3(a).**

33 (b) Whenever work on a storm water system (that is combined with
34 a sanitary sewer system) necessitates the repair or replacement of all or
35 part of a sanitary sewer system, the entity that owns or maintains the
36 sanitary sewer system shall assume a proportionate share of the cost of
37 repairing or replacing the sanitary sewer system.

38 ~~(b)~~ (c) The board and the entity that owns or manages the sanitary
39 sewer system shall negotiate the division of the costs described in
40 subsection ~~(a)~~: (b).

41 ~~(c)~~ (d) If the parties cannot agree to a division of the costs, they
42 shall petition the circuit court of the county where the majority of the



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1 systems are located to divide the costs. The circuit court shall hold a
2 hearing on the division of costs within sixty (60) days after receiving
3 the petition. The court shall publish notice of the hearing in accordance
4 with IC 5-3-1. The decision of the court is binding on both parties.

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